



maintain a residence in Florida. Plaintiff Robert Hinkle was the pilot and owner of the accident aircraft.

The Florida action is captioned *Hinkle, et al. v. Continental Motors Inc., et al.*, Case Nos. 8:16-cv-2966-T-36MAP; 8:16-cv-3223-T-24AAS (consolidated) (M.D. Fla.) (ECF Docket Report attached as Ex. A). In that litigation, defendants Cirrus Design Corporation d/b/a Cirrus Aircraft and Cirrus Industries, Inc. (collectively the “Cirrus” defendants) and defendant Kavlico Corporation (“Kavlico”) have moved for dismissal under Rule 12(b)(2) for lack of personal jurisdiction. The parties have submitted all of their briefing on those motions, which have now been pending for some time. The Cirrus defendants’ motion to dismiss was filed on December 9, 2016, and Kavlico’s on January 5, 2017. Plaintiffs have opposed each motion.

Due to time constraints, Plaintiffs were forced to file this lawsuit as a savings action. Because this action and the Florida action involve the same parties and claims, Plaintiffs seek to stay this action until the various motions to dismiss in the Florida action are decided.

### **III. ARGUMENT**

Plaintiff respectfully request the Court stay this case until the District Court for the Middle District of Florida resolves the pending motions to dismiss for lack of personal jurisdiction. This Court has discretion in deciding whether to grant a stay and must “weigh competing interests and maintain an even balance.” *PBM Nutritionals, LLC v. Dornoch Ltd.*, 667 F. Supp. 2d 621, 631 (E.D. Va. 2009) (citing *Landis v. N. Am. Co.*, 299 U.S. 248, 255 (1936); *Kerotest Mfg. Co. v. C–O–Two Fire Equipment Co.*, 342 U.S. 180, 183–84 (1952)). “Before proceedings in one suit may be stayed to abide the proceedings in another, the parties to the two causes must be shown to be the same and the issues identical.” *Landis*, 299 U.S. at 254. Courts may consider factors relevant to the stay, including (1) whether all necessary parties are present in each action, (2) convenience

to the parties, and (3) judicial economy and comity. *See Int'l Nickel Co. v. Martin J. Barry, Inc.*, 204 F.2d 583, 585–586 (4th Cir. 1953); *PBM Nutritionals*, 667 F. Supp. 2d at 631.

First, the parties to the Florida action are identical to the Parties in this case, as are the various causes of action. To be sure, Plaintiffs have exhibited the docket report for the Florida action to this motion, which shows that the *Hinkle* and *Skinner* cases were consolidated for discovery and that the same defendants have been named in those actions as in this action.

Next, judicial economy and comity would be served by a stay. “Where two federal courts have concurrent jurisdiction over an action, the general principle is to avoid duplicative litigation.” *PBM Nutritionals*, 667 F. Supp. 2d at 632 (citing *Colorado River Water Conservation Dist. v. United States*, 424 U.S. 800, 817 (1976)). “Under this principle, a federal court has broad discretion ‘to stay its hand pending the outcome of another federal proceeding.’” *Id.* (quoting *United States v. SCM Corp.*, 615 F. Supp. 411, 416 (D. Md. 1985)). Also, a court may consider which action was first-filed in its comity determination. *Id.*

In this case, judicial economy would be best served by allowing time for the disposition of the motions to dismiss in Florida prior to proceeding with this action. The parties agree on this stay, and in the event that one or more of the jurisdictional motions are granted in the Florida action, Plaintiffs intend to pursue those parties in this action. However, the Plaintiffs first-filed the Florida action, extensive briefing has been submitted to that court on the motions to dismiss that are pending, and that court has already entered a scheduling order. Due to the more advanced procedural posture in the Florida action, judicial economy and comity would be best served by staying this action pending resolution of the jurisdictional challenges in Florida.

Finally, there will be no prejudice or inconvenience to any party by staying this matter. As stated above, the parties have conferred and there is no objection to Plaintiffs’ request for a stay.

Further, the Parties run the risk of duplicative discovery and motions practice should this matter proceed during the pendency of the motions to dismiss in the Florida action. In short, the requested stay in this case will favor judicial economy and comity, will not prejudice or inconvenience any of the Parties, and will allow for a more efficient resolution to both matters.

#### IV. CONCLUSION

For the reasons stated above, Plaintiffs respectfully request this matter be stayed pending resolution of the motions to dismiss in the Florida action. All of the factors discussed above weigh in favor of a stay, which will potentially avoid duplicative litigation. A stay will not prejudice any party, and judicial economy and comity weigh in favor of a stay. Therefore, Plaintiffs respectfully request this matter be stayed pending the resolution of the motions to dismiss in the Florida action.

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By: /s/ D. Charles Dukes  
D. Charles Dukes (Fed I.D. # 11751)  
cdukes@rpwb.com  
**Richardson Patrick Westbrook & Brickman, LLC**  
1037 Chuck Dawley Blvd., Bldg. A  
Mt. Pleasant, SC 29464  
Telephone: (843) 727-6500  
Facsimile: (843) 216-6509

*Attorney for Plaintiffs*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing pleading was filed with the Court and served on counsel listed below via the Court's ECF system and U.S. Mail on Wednesday, March 08, 2017:

Nicholas E. Pantelopoulos, Esq.  
**Kaplan, Massamillo & Andrews, LLC**  
70 East 55<sup>th</sup> Street, 25<sup>th</sup> Floor  
New York, NY 10022  
T: 212-922-0450  
F: 212-922-0530  
[nep@kmalawfirm.com](mailto:nep@kmalawfirm.com)  
*Counsel for Kavlico Pressure Sensors/Kavlico Corporation*

Patrick E. Bradley, Esq.  
Catherine E. Kiernan, Esq.  
Gregory D. Speier, Esq.  
**Reed Smith LLP**  
Princeton Forrestal Village  
136 Main St., Suite 250  
Princeton, NJ 08540  
[pbradley@reedsmith.com](mailto:pbradley@reedsmith.com)  
[ckiernan@reedsmith.com](mailto:ckiernan@reedsmith.com)  
[gspeier@reedsmith.com](mailto:gspeier@reedsmith.com)  
[lkuhn@reedsmith.com](mailto:lkuhn@reedsmith.com)  
*Counsel for Cirrus Design Corporation d/b/a Cirrus Aircraft and Cirrus Industries, Inc.*

Juan R. Serrano, Esq.  
Peter Joseph Lewis, Esq.  
**Griffin & Serrano, PA**  
6<sup>th</sup> Floor  
707 SE 3<sup>rd</sup> Avenue  
Ft. Lauderdale, FL 33316  
[jserrano@griffinseerrano.com](mailto:jserrano@griffinseerrano.com)  
[plewis@griffinseerrano.com](mailto:plewis@griffinseerrano.com)  
[apavon@griffinseerrano.com](mailto:apavon@griffinseerrano.com)  
[service@griffinseerrano.com](mailto:service@griffinseerrano.com)  
*Counsel for Continental Motors, Inc., d/b/a Continental Motors Group and Continental Motors Services, Inc.*

Edward M. Mullins, Esq.  
**Astigarraga Davis Mullins & Grossman, P.A.**  
1001 Brickell Bay Drive, 9<sup>th</sup> Floor  
Miami, FL 33131  
[emullins@astidavis.com](mailto:emullins@astidavis.com)  
*Counsel for Cirrus Design Corporation d/b/a Cirrus Aircraft and Cirrus Industries, Inc.*

/s/ D. Charles Dukes  
D. Charles Dukes (Fed. I.D. #11751)